

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

DIW BOL KIIR, Petitioner, vs. DARIN YOUNG, MARTY JACKLEY, THE ATTORNEY GENERAL OF THE STATE OF SOUTH DAKOTA, Respondents.	CIV. 18-4096-KES ORDER ADOPTING REPORT AND RECOMMENDATION AND DISMISSING CASE
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Petitioner, Diw Bol Kiir, filed a pro se petition for writ of habeas corpus under 28 U.S.C. § 2254. Docket 1. The court referred the petition to a United States magistrate judge under 28 U.S.C. § 636(b) and Rule 8 of the Rules Governing Section 2254 Cases in United States District Courts.

Magistrate Judge Veronica L. Duffy filed a report and recommendation recommending that Kiir's petition be dismissed without prejudice so he can bring all his claims after he finishes exhausting his ineffective assistance of counsel claims. Docket 16. Objections to the report and recommendation were due by January 4, 2019.

The time for objections has passed. No objections to the report and recommendation have been filed under 28 U.S.C. § 2254, Rule 8(b)(3). The court has considered the case de novo and adopts the report and recommendation in full. Therefore, it is

ORDERED that the magistrate judge's report and recommendation (Docket 16) is adopted in full. Kiir's pro se petition for habeas corpus is dismissed without prejudice.

IT IS FURTHER ORDERED that Respondents' motion to dismiss with prejudice (Docket 8) and Kiir's motion for briefing and evidentiary hearing (Docket 13) are denied as moot.

IT IS FURTHER ORDERED that Kiir's motion for leave to proceed in forma pauperis (Docket 4) is granted.

IT IS FURTHER ORDERED that based upon the reasons stated and under Fed. R. App. P. 22(b), the court finds that petitioner has not made a substantial showing of the denial of a constitutional right. 28 U.S.C. § 2253(c)(2). Thus, a certificate of appealability is denied.

Dated January 22, 2019.

BY THE COURT:

/s/ Karen E. Schreier

KAREN E. SCHREIER
UNITED STATES DISTRICT JUDGE